

ORDINANCE NO. 12.04

AN ORDINANCE OF THE CITY OF MOUNTAIN VIEW PROVIDING FOR  
THE DESIGNATION AND PRESERVATION OF HISTORIC RESOURCES

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN  
AS FOLLOWS:

Section 1. Article A36.78 is hereby added to Chapter 36 and shall read as follows:

**"SEC. A36.78.010. Council findings.**

The city council finds and declares that the recognition, preservation, protection and use of historical resources is in the best interest of the health, prosperity, social and cultural enrichment and general welfare of the city and furthers General Plan Goal G, which is to preserve and protect Mountain View's historic resources and encourage their restoration. This program, by providing a system of voluntary compliance and available incentives, will increase the likelihood that historical resources are maintained, restored, enhanced and protected and includes procedures for protection of the environment which, absent this program, may not exist.

**SEC. A36.78.020. Definitions.**

For the purpose of this article, the following words shall have the meanings set forth in this section:

- a. "Character-defining feature" shall mean the distinctive, tangible and physical features or elements which contribute to the overall character of a structure.
- b. "Exempt alteration" shall mean an alteration or modification that is determined by the zoning administrator to have limited potential to affect the character-defining features of a historic resource and shall include modifications to the interior, changes to landscaping and the repainting of previously painted surfaces, regardless of color. The zoning administrator may also determine that the following changes are exempt: maintenance or repair of windows, doors, porch elements, chimneys and roofs with the same or similar designs and materials whether or not the change requires a building permit.
- c. "Historic resource" shall mean any building, structure, object or site that the city council has designated for inclusion in the Mountain View Register of Historic Resources.
- d. "Mountain View Register of Historic Resources," or "Historic Register," or "Register," or "Initial Register" shall mean the inventory of buildings, structures, objects and sites designated by the city council as Historic Resources pursuant to the provisions of this ordinance and adopted by council resolution as amended from time to time. The Mountain View Register of Historic Resources shall be the city's only "local register of historical resources" under Public Resources Code Section 5024.1.
- e. "Significant alteration" shall mean an alteration or modification to the exterior that is determined by the zoning administrator as having the potential to affect the character-defining features of the building. It does not include removal of nonhistoric features or additions that may exist on a Historic Resource.

**SEC. A36.78.030. Preservation of resources.**

No person shall alter, modify, remove or destroy any Historic Resource designated pursuant to this article except in compliance with this article.

**SEC. A36.78.040. Designation criteria.**

A building, structure, site or other improvement may be designated as a Historic Resource and placed on the Mountain View Register of Historic Resources if the city council finds that it meets one or more of the following criteria:

- a. Is strongly identified with a person who, or an organization which, significantly contributed to the culture, history or development of the City of Mountain View;
- b. Is the site of a significant historic event in the city's past;
- c. Embodies distinctive characteristics significant to the city in terms of a type, period, region or method of construction or representative of the work of a master or possession of high artistic value; or
- d. Has yielded, or may be likely to yield, information important to the city's prehistory or history.

**SEC. A36.78.050. Designation process for Historic Register.**

- a. **Initial Register.** The city council may, by resolution, adopt an "Initial Mountain View Register of Historic Resources." Owners of properties on the Register will be notified by certified mail within thirty (30) days of adoption of the ordinance providing for the designation and preservation of historic resources. If the council adopts a Historic Register, all properties, including those designated pursuant to this section, shall be included in the Register.
- b. **Initiation by owner.** The property owner may request designation of a building, structure or other improvement as a Historic Resource. Applications for designation must be accompanied by such historical and architectural information as is required to allow city staff to make an informed recommendation concerning the application. The application shall be filed with the community development department.
- c. **Initiation of individual Historic Resource by the council.** The council may initiate the designation by majority vote which will begin the review process. Within thirty (30) days of the initiation of the designation by the council, the city shall notify the property owner of such application. The application will be processed only if the property owner agrees in writing to such designation.
- d. **Public hearings.**
  1. **Public hearing before zoning administrator.** For applications initiated pursuant to subsections (b) and (c) above, the zoning administrator shall hold a public hearing in accordance with Sec. A36.80 (Applications, Hearings and Appeals) to consider the application. The zoning administrator shall review the evidence in support of the application and determine whether the property meets the criteria for designation, and forward a recommendation to the city council on whether the property should be placed on the Register.
  2. **Public hearing before city council.** Upon receipt of the zoning administrator's recommendation, the council shall hold a public hearing in accordance

with Sec. A36.80 (Applications, Hearings and Appeals). The council shall review the evidence in support of the application and the recommendation of the zoning administrator and determine whether the property meets the criteria for designation and make a final decision on whether the property should be placed on the Register.

**SEC. A36.78.060. Removal from Register.**

a. **Removal from Initial Register.** Within six (6) months of the adoption of this ordinance, any property owner may submit a request in writing, on a form approved by the community development director, that their property be removed from the Register. The application for removal shall be signed by all owners of the property. The director shall determine whether the request for removal is in compliance with this article and shall grant the request if it complies with the requirements of this article.

b. **Removal from Register.** Properties remaining on the Register pursuant to Sec. A36.78.050.a, and following the six-month removal period, and properties entered on the Register pursuant to Sec. A36.78.050(b), (c) and (d), shall remain on the Register and cannot be removed for ten (10) years from the initial designation. Every five (5) years thereafter, on the anniversary of the designation, properties may apply for removal. The application shall be submitted and reviewed consistent with subsection (a), above.

c. **Recapture of property tax incentive.** The application for removal of the Historic Resource from the Register shall include a payment for property tax rebates, with interest. The city council, by separate action, shall designate the appropriate interest rate.

d. **Predemolition Review.** Prior to the issuance of a demolition permit for any building, which had been designated as a historic resource pursuant to Sec. A36.78.050, the applicant shall meet with city staff to review the alternatives, incentives and options to demolition. The applicant shall be notified in writing of the time and place of the meeting within 30 days of filing a complete application for a demolition permit. The council may, by resolution, require additional historic buildings, not otherwise designated, to go through this review process.

**SEC. A36.78.070. Incentives and benefits.**

a. Historic resources are eligible for special incentives and benefits as determined and adopted by the city council. The availability of the following incentives and benefits is contingent upon the determination that the approval, exemption or benefit will protect and enhance the character-defining features or retention of the building.

1. Variances pursuant to Sec. A36.56.050;
2. Major floor area ratio exceptions pursuant to Sec. A36.12.030.4;
3. Setback and minor floor area exceptions pursuant to Sec. A36.12.040.1;
4. Exemptions from nonconforming uses and structures pursuant to Sec. 36.29;
5. Exceptions from requirements of the Downtown Precise Plan;
6. Use of the State Historic Building Code; and
7. Mills Act contracts.

b. The council may also, by resolution or on a case-by-case basis during a public hearing process, determine which of the following additional incentives and/or benefits are appropriate. The incentives and benefits thereby granted shall only be effective during the maintenance of the Historic Resource.

1. Historic building rehabilitation loan fund; and

2. Rebate of the City of Mountain View portion of the property tax during the designation period. The city's finance and administrative services director shall develop a procedure to facilitate this rebate. The rebate shall be based on the property owner's/property owners' application for the benefit and may be granted on a prospective basis only.

**SEC. A36.78.080. Requirement of permit; development review process.**

a. **Applicability.** No person shall make a significant alteration, redevelop, or relocate any structure or improvement, or any portion thereof, upon a property designated as a Historic Resource on the Mountain View Register of Historic Resources without first obtaining a "Historic Preservation Permit" or HP permit. An HP permit shall remain in effect for four (4) years from the date of approval.

b. **Exceptions.**

1. **Exempt alteration.** A Historic Preservation Permit shall not be required for an exempt alteration. The city council may, by resolution, adopt a list of alterations that are deemed to be exempt alterations.

2. **Hazardous or unsafe conditions.** Construction, alteration or demolition necessary to correct the unsafe or dangerous condition of any structure, or other feature or part thereof, where such condition has been declared unsafe or dangerous, in writing, by the building official or fire marshal and where said officials have declared the proposed measures necessary on an urgency basis to correct the condition. In no event shall any work be performed which is not absolutely necessary to correct the immediate danger created by the unsafe or dangerous condition, and such work shall be done with due regard for preservation of the appearance of the structure involved.

3. **Ordinary repair and maintenance.** Nothing in this section shall be construed to prevent the ordinary repair and maintenance of any architectural feature of a designated Historic Resource. The owner of a designated Historic Resource shall keep and maintain in good condition and repair all exterior portions of the resource and all interior portions whose maintenance is necessary to prevent deterioration and decay of the exterior feature.

c. **Special submittal requirements.** The application shall be submitted to the community development department and, in addition to the application requirements of this division, shall contain information and documentation, including architectural drawings and specifications (site plan, elevations, floor plans and building materials); current photographs, sketches, drawings or other descriptive materials necessary to illustrate the proposed alteration; and any other information, which could include an historical assessment by a professional consultant, as determined to be necessary by the community development department for a complete and adequate application.

d. **Hearings and action.** Applications for HP permits shall be initially reviewed by the Development Review Committee (DRC). The DRC shall forward a recommendation to the zoning administrator who shall hold a duly noticed public hearing in accordance with Sec. A36.80 (Applications, Hearings and Appeals).

e. **Findings.** The HP permit may be approved or conditionally approved if the following findings are made:

1. The proposed significant alteration will not result in a substantial adverse change in the significance of the Historic Resource.

2. The proposed significant alteration maintains and enhances the appearance of the community.

**SEC. A36.78.090. National and California Register properties.**

Alterations to buildings which are eligible for the National Register of Historic Places or the California Register of Historical Resources shall be reviewed pursuant to Sec. A36.78.080(a), (b), (c), (d) and (e), and except that the city council shall determine whether to grant an HP Permit and the council must find that the alteration is in substantial compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties. If an HP Permit is granted, any structure proposed to replace a Historic Resource shall be subject to design review and approval by the city council.

**SEC. A36.78.100. Application of other laws.**

Nothing in this Article shall be construed to abrogate the California Environmental Quality Act (CEQA) or any other State, Federal or local law relative to the preservation of historical resources or the environment.

**SEC. A36.78.110. Appeals.**

Appeals to the zoning administrator or city council, as applicable, shall be filed and processed pursuant to Sec. A36.80 (Applications, Hearings and Appeals)."

Section 2. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

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The foregoing ordinance was regularly introduced at the Special Meeting of the City Council of the City of Mountain View, duly held on the 28th day of September, 2004, and thereafter adopted at the Special Meeting of said Council, duly held on the 12th day of October, 2004, by the following roll call vote:

AYES: Councilmembers Galiotto, Kasperzak, Neely, Perry and Mayor Pear

NOES: Councilmembers Stasek and Zoglin

ABSENT: None

NOT VOTING: None

ATTEST: APPROVED:

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ANGELITA M. SALVADOR  
CITY CLERK

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MATT PEAR  
MAYOR

I do hereby certify that the foregoing ordinance was passed and adopted by the City Council of the City of Mountain View at the Special Meeting held on the 12th day of October, 2004, by the foregoing vote, and was published in the *San Jose Post Record* by reference on the 8th day of October, 2004, and posted in three prominent places in said City.

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City Clerk  
City of Mountain View

MDM/5/ORD  
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